

FILED *RA*

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Alexandria Division

2020 FEB -3 P 1:28

CLERK OF DISTRICT COURT
ALEXANDRIA, VIRGINIA

Case No.

1:20cv113

(to be filled in by the Clerk's Office)

Benedict Emesowum

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Ashley Buxton, M. Kang, N.Mindell, S.Butzer, H.
Buchofer, Arlington County

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	BENEDICT EMESOWUM		
Address	1220 L ST. NW #100-415		
	WASHINGTON	DC	20005
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	N/A		
Telephone Number			
E-Mail Address			

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Ashley Buxton		
Job or Title <i>(if known)</i>	Police officer		
Address	1425 N Courthouse Rd		
	Arlington	VA	22201
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Arlington		
Telephone Number	703-558-2222		
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	M. Kang		
Job or Title <i>(if known)</i>	Police officer		
Address	1425 N Courthouse Rd		
	Arlington	VA	22201
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Arlington		
Telephone Number	703-558-2222		

E-Mail Address (*if known*)☐ Individual capacity ☒ Official capacity

Defendant No. 3

Name

N. Mindell

Job or Title (*if known*)

Police Officer

Address

1425 N Courthouse Rd

Arlington

VA

22201

City

State

Zip Code

County

Arlington

Telephone Number

703-558-2222

E-Mail Address (*if known*)☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name

S. Butzer

Job or Title (*if known*)

Police officer

Address

1425 N Courthouse Rd

Arlington

VA

22201

City

State

Zip Code

County

Arlington

Telephone Number

703-558-2222

E-Mail Address (*if known*)☐ Individual capacity ☒ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

4TH AMENDMENT RIGHTS AGAINST WRONGFUL ARREST, 8TH AMENDMENT RIGHT AGAINST CRUEL PUNISHMENT, 14TH AMENDMENT RIGHT FOR EQUAL PROTECTIONS OF THE LAW.

- C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

1. The defendants placed Plaintiff in handcuffs and under arrest without fully investigating or giving plaintiff the due process to give them his side of the incident, defendants were prejudiced even though they did not witness the incident. 2. The defendants inflicted serious physical harm meting out a cruel and unusual punishment by allowing Plaintiff to freeze under literally freezing temperatures of March 9, 2018. 3. Defendants inflicted emotional harm by parading plaintiff in public and embarrassing him with handcuffs in public as people looked on as though he had committed a crime.

The County is complicit by creating a culture where numerous officer would behave in such a wicked and harmful way to a person in their custody and none of out of 5 of them would take it upon themselves to not torture or harm someone in their custody. Only where such bad culture has been developed will such an incident happen. Moreover, Plaintiff filed a complaint about the incident in April of 2018 and the county took no action nor ntified Plaintiff of any action taken.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Arlington, Virginia

- B. What date and approximate time did the events giving rise to your claim(s) occur?

March 09, 2018 between 7-7:45pm

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

On March 9, 2018 at about 6:40pm an accident occurred at a private parking lot located at 1400 Joyce st, Arlington, VA22202 between my vehicle and one belonging to one Dylan Anderson. After the accident, I contacted Arlington 911 dispatch and was informed that the police would not come to the scene since it was a minor accident with no injuries. The other person involved in the accident refused to exchange his information so I collected as much information I could by taking photos and videos of him and his car, his license plate, and his car make and model. After collecting all this information I left and continued on my business.

I noticed the other accident party trailing and followin my car as I went from the accident location to the mall at the corner of 12th st and Hayes st. I went in to get some food worth hundreds of dollars and as I returned and tried to enter my car, I was immediately stopped and handcuffed by Ashley Buxton and another chubby caucasian male officer. They did not tell me why they were arresting me even when I asked them, they partially read me my rights, they did not ask me a question or allow me to give my version of events but proceeded to arrest me simply because an individual made an accusation against me.

The officer denied me due process by failing to investigate before deciding to arrest me. They denied me due process by failing to hear my side of the incident before arresting me. After arresting me the refused to put me in the cruiser and take me to jail as required. Rather they wanted to parade and embarrass me in public and leave me out in the freezing cold on the night of March 9, 2018.

Time after time, I pleaded with the officers that I was cold and they should either have me in the police cruiser or cover me up with my coat but they refused to 30 minutes to do so because they wanted me to freeze. All the officers ignored my open plea numerous times until they realized they had wrongly arrested me and began to panic.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

1. I was injured by the violation of my 4th, 8th, and 14th amendment constitutional rights.
 2. I was wrongly arrested.
 3. I was tortured with exposure to freezing temperatures
 4. I contracted a severe cold after this incident that required medication.
 5. The defendants intentionally sought to humiliate and embarrass me by putting me in handcuffs as a public spectacle.
 6. All the food purchased worth hundreds got damaged. I lost a lot of income defending the frivolous ticket.
 7. Mental anguish, pain and suffering.
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V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. I want the involved officers to be officially disciplined as appropriate.
 2. I want the Arlington County to pay restitution to me for all expenses, and money/property lost, income lost due to this incident, and defending the ticket.
 3. I want defendants and Arlington County to pay money damages amounting to \$100,000 for the cruel and unusual punishment and torture I endured at the hands of the defendants.
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VI. Certification and Closing

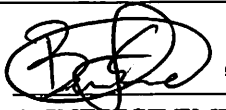
Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 01/28/2020

Signature of Plaintiff



Printed Name of Plaintiff

BENEDICT EMESOWUM

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

_____ City

_____ State

_____ Zip Code

Telephone Number

E-mail Address

Defendant No.5

Name: H. Buchofer
Job or Title: Police Officer
Address: 1425 N. Courthouse rd.
Arlington, Virginia, 22201
County: Arlington
Telephone: 703-558-2222
Capacity: Official Capacity

Defendant No. 6

Name: Arlington County
Job or Title: N/A
Address: 2100 Clarendon Blvd, Suite 300
Arlington, VA 22201
County: Arlington
Telephone: 703-228-3130
Capacity: Official capacity